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6 Attorneys for Defendant COMCAST
BROADBAND SECURITY, LLC DBA
7 XFINITY HOME

8
9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION
11

12 ALFREDO LEON OREA,

13 Plaintiff,

14 vs.

15 COMCAST CORPORATION,

16 Defendant.

CASE NO.

NOTICE OF REMOVAL
UNDER 28 U.S.C. § 1441(c) (Federal
Question)

17
18 TO THE CLERK OF THE COURT OF THE NORTHERN DISTRICT OF
19 CALIFORNIA:

20 PLEASE TAKE NOTICE that Defendant COMCAST BROADBAND SECURITY, LLC
21 DBA XFINITY HOME ("Comcast"), erroneously sued as Comcast Corporation does hereby
22 remove to this Court the state court action described below:

23 1. On July 10, 2013, an action was commenced in the Superior Court of the State of
24 California in and for the County of Contra Costa, entitled ALFREDO LEON OREA vs.
25 COMCAST CORPORATION, as case number C1301455. A true and correct copy of this
26 Complaint is attached hereto as **Exhibit "A"**.

27 2. Plaintiff then personally served the Complaint on Comcast's registered agent on
28 July 25, 2013. A true and correct copy of the summons is attached hereto as **Exhibit "B"**.

1 3. Jurisdiction. This action is a civil action of which this Court has original
2 jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by
3 Defendants pursuant to the provisions of 28 U.S.C. § 1441(c) because the Complaint alleges two
4 causes of action for alleged violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.

5 4. Intradistrict Assignment. This Complaint has been removed to the Oakland
6 Division of the Northern District because the original state court action was filed in the County of
7 Contra Costa.

8
9 DATED: August 26, 2013

COOPER, WHITE & COOPER LLP

10
11 By: /s/
12 Jie-Ming Chou
13 Attorneys for DEFENDANT COMCAST
14 BROADBAND SECURITY, LLC DBA
15 XFINITY HOME
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EXHIBIT A

COPY

1 Todd M. Friedman (216752)
 2 Nicholas J. Bontrager (252114)
 3 Suren N. Weerasuriya (278512)
 4 Law Offices of Todd M. Friedman, P.C.
 5 369 S. Doheny Dr. #415
 6 Beverly Hills, CA 90211
 7 Phone: 877-206-4741
 8 Fax: 866-633-0228
 9 tfriedman@attorneysforconsumers.com
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 11 sweerasuriya@attorneysforconsumers.com
 12 Attorney for Plaintiff

FILED

2013 JUL 10 P 2:59

K. TORRE, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.

BY: J. Felix, Deputy Clerk

 PER LOCAL RULE 5 THIS
 CASE IS ASSIGNED TO
 DEPT 33

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 FOR THE COUNTY OF CONTRA COSTA
 11 UNLIMITED JURISDICTION

SUMMONS ISSUED

13 ALFREDO LEON OREA,

14 Plaintiff,

15 vs.

17 COMCAST CORPORATION,

18 Defendant.

Case No.

C 13-01455

COMPLAINT FOR VIOLATION
OF FAIR CREDIT REPORTING ACT

(Amount exceeds \$25,000)

1. Violation of Fair Credit Reporting Act

22 I. INTRODUCTION

23 1. This is an action for actual and statutory damages brought by Plaintiff, an
 24 individual, against Defendant, for violations of the Fair Credit Reporting Act, 15 U.S.C. §1681
 25 *et seq.*, as amended. ("FCRA").
 26
 27
 28

IL PARTIES

2. Plaintiff, ALFREDO LEON OREA ("Plaintiff"), is a natural person residing in Contra Costa county in the state of California.

3. At all relevant times herein, Defendant, COMCAST CORPORATION, ("Defendant") is a limited liability company and is engaged in the consumer home cable television and internet industry for consumers nationwide.

4. At all times pertinent hereto, Defendant was a "person" as that term is defined by 15 U.S.C. § 1681a(b).

5. At all times pertinent hereto, Plaintiff was a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).

6. Defendants acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

III. FACTUAL ALLEGATIONS

7. In or about the beginning of 2013, Plaintiff began working with Defendant for the purpose of potentially subscribing to one of Defendant's many consumer services.

8. During the course of this process, Plaintiff exchanged numerous emails/phone calls with Defendant and also provided documents.

9. Plaintiff specifically instructed Defendant's agents not to pull his credit report as Plaintiff was mindful that continued inquiries of his credit report would harm his potential credit worthiness.

10. Nevertheless, on March 1, 2013, Defendant, without obtaining any permission, and without a permissible purpose, accessed Plaintiff's consumer report (hereinafter "credit report") via Experian, TransUnion and Equifax, the national credit reporting agencies.

1 11. Upon notification that Defendant had accessed Plaintiff's credit Despite
2 Plaintiff's instructions not to do so, Plaintiff notified Defendant and demanded that Defendant
3 remedy the situation.

4
5 12. Defendant informed Plaintiff that Defendant could not remedy the situation.

6 13. As a result of Defendant's conduct, Plaintiff has suffered actual damages and
7 serious financial and pecuniary harm arising from monetary losses relating to credit denials,
8 loss of credit and loan opportunities, all of which will continue into the future to Plaintiff's
9 great detriment and loss.

10
11 14. As a result of Defendant's conduct, Plaintiff has suffered great physical,
12 emotional and mental pain and anguish, and Plaintiff will continue to suffer the same for an
13 indefinite time in the future, all to Plaintiff's great detriment and loss.

14 15. As a result of Defendant's conduct, Plaintiff has suffered actual damages in the
15 form of financial and dignitary harm arising from the injury to credit rating and reputation, and
16 Plaintiff will continue to suffer the same for an indefinite time in the future, all to Plaintiff's
17 great detriment and loss.

18
19 16. As a result of Defendant's conduct, Plaintiff has suffered a decreased credit
20 score as a result of the negative trade-line entries appearing on Plaintiff's credit file.

21
22 **FIRST CLAIM FOR RELIEF**

23 **VIOLATION OF THE FCRA - OBTAINING A CONSUMER REPORT BY**

24 **USE OF FALSE PRETENSES, 15 U.S.C. § 1681 *et seq.***

25
26 17. Plaintiff repeats and re-alleges and incorporates by reference the preceding
27 paragraphs.

1
2 18. Defendant knowingly or negligently used deception and false pretenses to obtain
3 Plaintiff's consumer report, by falsely representing or certifying that the report was being
4 obtained for a permissible purpose.

5 19. Defendant's conduct in obtaining Plaintiff's credit report under false pretenses
6 violates 15 U.S.C. §1681q.

7
8 **WHEREFORE**, Plaintiff requests that this Court enter judgment in his favor and
9 against Defendant as follows:

- 10 A. Pursuant to 15 U.S.C. § 1681n(a) (1) (B), award him actual damages, or \$1,000 for
11 each access of his credit report obtained by false pretenses, whichever is greater;
12 B. Pursuant to 15 U.S.C. § 1681n(a) (2), award such punitive damages as the Court
13 deems appropriate;
14 C. Pursuant to 15 U.S.C. § 1681n(a) (3), award costs of the action and reasonable
15 attorney fees; and
16 D. Grant such other and further relief as the court deems just and proper.
17

18 **SECOND CLAIM FOR RELIEF**

19
20 **VIOLATION OF THE FCRA—WILLFULLY AND NEGLIGENTLY OBTAINING A**
21 **CONSUMER REPORT WITHOUT A PERMISSIBLE PURPOSE**

22
23 20. Plaintiff repeats and re-alleges and incorporates by reference the preceding
24 paragraphs.

25 21. Defendant acted knowingly or negligently in requesting and obtaining Plaintiff's
26 credit report without a permissible purpose, and therefore violated 15 U.S.C. §1681b(f).

27 22. Defendant's conduct was a direct and proximate cause, as well as a substantial
28 factor, in causing the serious injuries, damages, and harm to Plaintiff that are outlined more
fully above, and as a result, Defendants are liable to compensate Plaintiff for the full amount of

1 statutory, punitive, and actual damages, along with attorneys' fees and costs, as well as other
2 such relief, permitted by law.

3 WHEREFORE, Plaintiff requests that this Court enter judgment in his favor and
4 against Defendant as follows:
5

- 6 A. Pursuant to 15 U.S.C. § 1681n(a)(1)(A), award him actual damages, or not less than
7 \$100 and not more than \$1,000 for each impermissible access of his credit report,
8 whichever is greater;
9 B. Pursuant to 15 U.S.C. § 1681n(a)(2), award such punitive damages as the Court
10 deems appropriate;
11 C. Pursuant to 15 U.S.C. §§ 1681n(a)(3) and 1681o, award costs of the action and
12 reasonable attorney fees; and
13 D. Grant such other and further relief as the Court deems just and proper.
14

15 DEMAND FOR JURY TRIAL

16 PLEASE TAKE NOTICE that Plaintiff demands trial by jury in this action.
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21 Respectfully submitted this 1st day of July, 2013.

22
23 By:

24 Todd M. Friedman, Esq.
25 Law Offices of Todd M. Friedman, P.C.
26 Attorney for Plaintiff
27
28

EXHIBIT B

7/25/13
3:40 PM
RP**SUMMONS**
(CITACION JUDICIAL)NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
COMCAST CORPORATIONYOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
ALFREDO LEON OREA

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

2013 JUL 10 P 2:57

K. TORRE, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.

BY: J. FELIX, Deputy Clerk

COPY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Superior Court of Contra Costa
725 Court Street
Martinez, CA 94553

CASE NUMBER:
(Número del caso):

C13-01455

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Todd M. Friedman, 369 S. Doheny Dr., Suite 201, Beverly Hills, CA 90211, 877-206-4741

DATE:
(Fecha)

JUL 10 2013

Clerk, by
(Secretario)J. FELIX Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant,
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify):

COMCAST CORPORATION

- under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

- ☐ other (specify):

- ☒ by personal delivery on (date): 7/25/13